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Applicants: Schneider et al.

Serial No.: 08/893,371

Filed: June 6, 1995

REDECLARATION

In the September 30, 2003, "REDECLARATION AND JUDGMENT" in Interference 104,154, the interference was redeclared by adding Klaveness et al. ("Klaveness") Reissue Application 09/227,410 to the interference and designating claims 50 and 55 thereof as corresponding to Count 1, the sole count, which reads:

Count 1

Microbubbles comprising an amphiphilic phospholipid material capable of formation of gas containing microbubbles, said microbubbles comprising a physiologically acceptable fluorine-containing gas;

or

a process of preparing a contrast agent comprising generating said microbubbles.

Judgment on the issue of priority as to the subject matter of Count 1 was entered against the Klaveness et al. ("Klaveness") claims which correspond to Count 1 (i.e., claims 3-8, 17, 19, 20, 29-32, and 38 of the Klaveness '490 patent, claims 3-10, 19, 20, 23, 24, 33-37, and 44 Klaveness '413 patent; and claims 50 and 55

of Klaveness reissue application 09/227,410) and in favor of the Schneider et al. ("Schneider") claims that correspond to Count 1 (i.e., application claims 57-75 and 80).

Judgment was also entered against claims 3-8, 17, 19, 20, 29-32, and 38 of the '490 patent and claims 3-10, 19, 20, 23, 24, 33-37, and 44 of the '413 patent for failing to satisfy the written description requirement of 35 U.S.C. § 112, ¶ 1. In addition, judgment was entered against Schneider's claims 57, 60-62, 65, 66, and 69-75 for unpatentability under the written description requirement of 35 U.S.C. § 112, ¶ 1 and against Schneider's claims 58, 59, 63, 64, 67, 68, and 80 for indefiniteness under 35 U.S.C. § 112, ¶ 2.

No party is entitled to a patent containing any of its claims which correspond to Count 1.



John C. Martin

Administrative Patent Judge
(703) 308-9783

cc:

For the party Schneider et al.:

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For the party Klaveness et al.:

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The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 164

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UNITED STATES PATENT AND TRADEMARK OFFICE **SEP 30 2003**

BEFORE THE BOARD OF PATENT APPEALS
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BOARD OF PATENT APPEALS
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JO KLAVERNESS, HANNO PRIEBE, PAL RONGVED, and LARS STUBBERUD,
Senior Party,¹

v.

JO KLAVERNESS, HANNO PRIEBE, PAL RONGVED, and LARS STUBBERUD,
Senior Party,²

v.

MICHEL SCHNEIDER, FENG YAN, PASCAL GRENIER (deceased,
by Nadine Garcel, Legal Representative),
JEROME PUGINIER, and MARIE-BERNADETTE BARRAU,
Junior Party.³

Patent Interference No. ~~104,154~~

¹ U.S. Patent 5,536,490, issued July 16, 1996, based on Application 08/119,217, a 35 U.S.C. § 371 national stage application based on PCT/EP92/00715, filed March 28, 1992. According to PTO records, assigned to Nycomed Imaging A/S. Accorded the benefit as to Count 1 of PCT/EP92/00715 in the declaration notice

² U.S. Patent 5,567,413, issued October 22, 1996, based on Application 08/466,615, filed June 6, 1995, a division of Application 08/119,217, which is a 35 U.S.C. § 371 national stage application based on PCT/EP92/00715, filed March 28, 1992. According to PTO records, assigned to Nycomed Imaging A/S. In the declaration notice, accorded the benefit as to Count 1 of: Application 08/119,217 and PCT Application PCT/EP92/00715, filed March 28, 1992.

³ Application 08/893,371, filed July 15, 1997. Unassigned. In the declaration notice, accorded the benefit as to Count 1 of: Application 08/853,936, filed May 9, 1997; Application 08/456,385, filed June 1, 1995, issued as Patent 5,658,551 on August 19, 1997; Application 08/315,347, filed September 30, 1994, issued as Patent 5,531,980 on July 2, 1996; Application 08/128,540, filed September 29, 1993, issued as Patent 5,380,519 on January 10, 1995; Application 07/775,989, filed November 20, 1991, issued as Patent 5,271,928 on December 21, 1993; PCT Application PCT/EP91/00620, filed April 2, 1991; and EP Application 90810262.7, filed April 2, 1990.

REDECLARATION AND JUDGMENT

Before WILLIAM SMITH, PATE and MARTIN, Administrative Patent Judges.

Martin, Administrative Patent Judge.

On September 30, 2003, the parties filed a Joint Statement on Termination of Interference" requesting that the interference be terminated "pursuant to the findings and rulings set forth in the Decision on Motions; Show Cause Order, issued January 31, 2003."

In accordance with pages 49-52 of the decision, the interference is hereby redeclared by adding Klaveness et al. ("Klaveness") Reissue Application 09/227,410 to the interference and designating claims 50 and 55 thereof as corresponding to Count 1, the sole count, which reads:

Count 1

Microbubbles comprising an amphiphilic phospholipid material capable of formation of gas containing microbubbles; said microbubbles comprising a physiologically acceptable fluorine-containing gas;

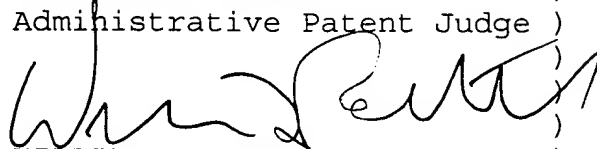
or

a process of preparing a contrast agent comprising generating said microbubbles.

Neither party is entitled to a patent containing any of its claims which correspond to Count 1.

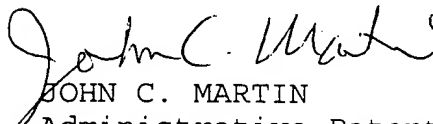


WILLIAM F. SMITH)
Administrative Patent Judge)



WILLIAM F. PATE III)
Administrative Patent Judge)

BOARD OF PATENT
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JOHN C. MARTIN)
Administrative Patent Judge)

Interference No. 104,154

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